

*Revocation of Antidumping Duty Order, and Termination of Five-Year (Sunset) Review of Antidumping Duty Order* published in the **Federal Register** on April 6, 2009 (74 FR 15435). As a result, the MCILS is no longer necessary and Commerce is removing the regulations pertaining to it. Commerce will also discontinue the associated collection-of-information authorization provided by the Office of Management and Budget under Control Number 0625-0259.

#### Classification

*Executive Order 12866:* This action has been determined to be not significant under E.O. 12866.

*Administrative Procedure Act:* The Department of Commerce finds good cause under 5 U.S.C. 553(b)(B) to waive prior notice and opportunity for public comment as it is contrary to the public interest. The regulations implementing the MCILS required all importers of cement from Mexico covered by the scope of the Cement Agreement to obtain an import license from the Department through the MCILS prior to completing their U.S. Customs and Border Protection entry summary documentation. IA used the information recorded via the MCILS to monitor compliance with the Cement Agreement. The Cement Agreement provided that if all interested parties had abided by its terms, Commerce would terminate the Cement Agreement on March 31, 2009, and would revoke the underlying antidumping duty order. All obligations of the Cement Agreement were fulfilled; therefore, Commerce terminated the Cement Agreement on the agreed upon date. Commerce also revoked the underlying antidumping duty order effective April 1, 2009. See 74 FR 15435. Accordingly, it is no longer necessary to collect licensing information via the MCILS, and is therefore in the public interest to discontinue regulations requiring importers to use, and for IA to maintain, the MCILS. If the Department continued to allow the operation of the MCILS, the public would be unduly burdened by the MCILS regulations. For the above reasons, the Department waives the notice and comment rulemaking requirements of 5 U.S.C. 553(b)(B) and issues this rule in final form.

The Department of Commerce finds good cause under 5 U.S.C. 553(d)(1) to waive the 30-day delay in effectiveness as this rule relieves a restriction. This rule removes the regulations requiring all importers of cement from Mexico covered by the scope of the Cement Agreement to obtain an import license from the Department prior to completing their U.S. Customs and

Border Protection entry summary documentation because it is no longer necessary to collect this information. Pursuant to the terms of the Agreement, the Department terminated the Cement Agreement on March 31, 2009, and revoked the underlying antidumping duty order effective April 1, 2009. See 74 FR 15435. Because it is no longer necessary to collect the information through the MCILS, the Department discontinues the MCILS, and removes the related implementing regulations through this final rule. The removal of the MCILS regulations constitutes a relief of a restriction as importers of cement from Mexico would no longer be required to obtain an import license from the Department. In order to implement this action immediately, the Department makes this rule effective upon publication.

*Regulatory Flexibility Act:* Because notice and opportunity for comment are not required pursuant to 5 U.S.C. 553 or any other law, the analytical requirements of the Regulatory Flexibility Act (5 U.S.C. 601 et seq.) are inapplicable. Therefore, a regulatory flexibility analysis is not required and has not been prepared.

#### List of Subjects in 19 CFR Part 361

Mexican Cement Import Licensing System.

■ Accordingly, pursuant to 13 U.S.C. 301(a) and 302, and section XI of the Cement Agreement, the Department is removing 19 CFR Part 361 in its entirety.

Dated: May 4, 2009.

**Ronald K. Lorentzen,**

*Acting Assistant Secretary for Import Administration.*

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 100

[Docket No. USCG-2009-0106]

RIN 1625-AA08

#### Special Local Regulation for Marine Events; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District

**AGENCY:** Coast Guard, DHS.

**ACTION:** Temporary final rule.

**SUMMARY:** The Coast Guard is temporarily changing the enforcement

period of special local regulations for recurring marine events in the Fifth Coast Guard District. These regulations apply to only five recurring marine events that conduct on-water activities such as power boat races, swimming competitions, and harbor celebrations. Special local regulations are necessary to provide for the safety of life on navigable waters during the events. This action is intended to restrict vessel traffic in portions of the Chester River, MD; Rappahannock River, VA; Elizabeth River, Southern Branch, VA; North Atlantic Ocean, Ocean City, MD; and Pasquotank River, Elizabeth, NC during each event.

**DATES:** Effective May 15, 2009, through July 12, 2009.

**ADDRESSES:** Comments and material received from the public, as well as documents mentioned in this preamble as being available in the docket, are part of docket USCG-2009-0106 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2009-0106 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. This material is also available for inspection or copying at the Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this temporary rule, call Dennis Sens, Project Manager, Fifth Coast Guard District, Prevention Division, at 757-398-6204 or e-mail at [Dennis.M.Sens@uscg.mil](mailto:Dennis.M.Sens@uscg.mil). If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On March 25, 2009, we published a notice of proposed rulemaking (NPRM) entitled Special Local Regulation for Marine Events; Temporary Change of Dates for Recurring Marine Events in the Fifth Coast Guard District in the **Federal Register** (74 FR 12769). We received no comments on the proposed rule. No public meeting was requested, and none was held.

Under 5 U.S.C. 553(d)(3), the Coast Guard finds that good cause exists for making this rule effective less than 30 days after publication in the **Federal Register**. The necessary information regarding change of dates for these

annual recurring marine events were not provided to the Coast Guard in sufficient time. The potential dangers posed by high speed power boat races conducted on the waterways with other vessel traffic makes special local regulations necessary. Delaying the effective date would be contrary to the public interest, since immediate action is needed to ensure the safety of the event participants, support vessels, spectator craft and other vessels transiting the event area. However, advance notifications will be made to users of the affected waterways via marine information broadcasts, local notice to mariners, commercial radio stations and area newspapers.

### Background and Purpose

Marine events are frequently held on the navigable waters within the boundary of the Fifth Coast Guard District. The on-water activities that typically comprise marine events include sailing regattas, power boat races, swim races and holiday parades. For a description of the geographical area of each Coast Guard Sector Marine Inspection Zone and Captain of the Port Zone, *please see* 33 CFR 3.25.

This regulation proposes to temporarily change the enforcement period of special local regulations for recurring marine events within the Fifth Coast Guard District. This proposed regulation applies to five marine events in 33 CFR 100.501, Table to § 100.501.

Annually, the District of Columbia Aquatics Club sponsors the “Maryland Swim for Life”, on the waters of the Chester River near Chestertown, MD. The regulation at 33 CFR 100.501 is effective annually for the Maryland Swim for Life marine event. The event is an open water swimming competition held on the waters of the Chester River, near Chestertown, Maryland. Approximately 150 swimmers will start from Rolph’s Wharf and swim up-river 2.5 miles then swim down-river returning back to Rolph’s Wharf. A large fleet of support vessels accompanies the swimmers. Therefore, to ensure the safety of participants and support vessels, 33 CFR 100.501 would be enforced for the duration of the event. This temporary final rule changes the period of enforcement for this event from the third Saturday in June or July to 5:30 a.m. until 2:30 p.m. on July 11, 2009. During that period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic may be allowed to transit the regulated area only when the Patrol Commander determines it is safe to do so.

On June 6, 2009, the Rappahannock River Boaters Association (RRBA) will sponsor the “2009 RRBA Spring Radar Shootout”, on the waters of the Rappahannock River near Layton, Virginia. The regulation at 33 CFR 100.501 is effective annually for this river boat race marine event. The event consists of approximately 35 powerboats participating in high-speed competitive races, traveling along a 3-mile straight line race course. Participating boats race individually within the designated course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels. The regulation at 33 CFR 100.501 would be enforced for the duration of the event. This temporary final rule changes the period of enforcement for this event from the last Saturday in June to 12 p.m. until 5 p.m. on June 6, 2009, or rain date June 7, 2009. During that period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander.

Norfolk Festevents Ltd., Norfolk, VA, sponsors the annual “Norfolk Harborfest Celebration”, on the waters of the Elizabeth River between Norfolk and Portsmouth, VA. The regulation at 33 CFR 100.501 is effective annually for Norfolk Harborfest marine event. This annual celebration of Norfolk Harbor consists of a variety of on the water activities that include an Opening Ceremony—Parade of Sail; jet ski, water ski, wake board demonstrations; Fire boat demonstrations; Lazy Lizzie Anything That Floats Parade and Race; Dinghy Parade; Search and Rescue demonstrations by USCG & USN; and Quick and Dirty Boat Race. Evening fireworks displays will be fired from barges on the Elizabeth River as part of the Harborfest celebration. A large fleet of spectator vessels is anticipated to view the Harborfest activities. Therefore, to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.501 would be enforced for the duration of the event. This temporary final rule changes the period of enforcement for this event from the first Friday, Saturday and Sunday in June to 9 a.m. on July 3, 2009 until 11 p.m. on July 5, 2009. During that period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Vessel traffic will be allowed to transit the regulated area between the water events, when the

Patrol Commander determines it is safe to do so.

The Offshore Performance Association (OPA) Racing LLC annually sponsors the “Offshore Grand Prix”, on the waters of the North Atlantic Ocean near Ocean City, MD. The regulation at 33 CFR 100.501 is effective annually for the Ocean City offshore race marine event. The event is conducted on the waters of the North Atlantic Ocean along the shoreline near Ocean City, MD. The event consists of approximately 50 V-hull and twin-hull inboard hydroplanes racing in heats counter-clockwise around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Therefore, to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.501 would be enforced for the duration of the event. This temporary final rule changes the period of enforcement for this event from the first Friday and Saturday in June to 10 a.m. on May 30, 2009 until 5 p.m. on May 31, 2009. During that period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

The Carolina Cup Regatta, Inc. annually sponsors a power boat race on the waters of the Pasquotank River near Elizabeth City, NC. The regulation at 33 CFR 100.501 is effective annually for this power boat race marine event. The event consists of approximately 25 inboard hydroplanes racing in counter clockwise heats around an oval race course. A fleet of spectator vessels is anticipated to gather nearby to view the competition. Therefore, to ensure the safety of participants, spectators and transiting vessels, 33 CFR 100.501 will be enforced for the duration of the event. This temporary final rule changes the period of enforcement for this event from the second Saturday and Sunday in June to 9 a.m. on May 16, 2009 until 5 p.m. on May 17, 2009. During that period, vessels may not enter the regulated area unless they receive permission from the Coast Guard Patrol Commander. Due to the need for vessel control during the event, vessel traffic will be temporarily restricted to provide for the safety of participants, spectators and transiting vessels.

### Discussion of Comments and Changes

The Coast Guard did not receive comments in response to the notice of proposed rulemaking (NPRM) published

in the **Federal Register**. Accordingly, the Coast Guard is establishing temporary special local regulations on specified waters of the Chester River, Rappahannock River, Elizabeth River, Pasquotank River and North Atlantic Ocean.

### Regulatory Analyses

We developed this rule after considering numerous statutes and executive orders related to rulemaking. Below we summarize our analyses based on 13 of these statutes or executive orders.

### Regulatory Planning and Review

This rule is not a significant regulatory action under section 3(f) of Executive Order 12866, Regulatory Planning and Review, and does not require an assessment of potential costs and benefits under section 6(a)(3) of that Order. The Office of Management and Budget has not reviewed it under that Order.

Although this rule prevents traffic from transiting a portion of certain waterways during specified events, the effect of this regulation will not be significant due to the limited duration that the regulated area will be in effect and the extensive advance notifications that will be made to the maritime community via marine information broadcasts, local radio stations and area newspapers so mariners can adjust their plans accordingly. Additionally, this rulemaking does not change the permanent regulated areas that have been published in 33 CFR 100.501, Table to § 100.501. In some cases, vessel traffic may be able to transit the regulated area when the Coast Guard Patrol Commander deems it is safe to do so.

### Small Entities

Under the Regulatory Flexibility Act (5 U.S.C. 601–612), we have considered whether this rule would have a significant economic impact on a substantial number of small entities. The term “small entities” comprises small businesses, not-for-profit organizations that are independently owned and operated and are not dominant in their fields, and governmental jurisdictions with populations of less than 50,000.

The Coast Guard certifies under 5 U.S.C. 605(b) that this rule will not have a significant economic impact on a substantial number of small entities. This rule would affect the following entities, some of which might be small entities: The owners or operators of vessels intending to transit or anchor in the areas where marine events are being

held. This regulation will not have a significant impact on a substantial number of small entities because it will be enforced only during marine events that have been permitted by the Coast Guard Captain of the Port. The Captain of the Port will ensure that small entities are able to operate in the areas where events are occurring when it is safe to do so. In some cases, vessels will be able to safely transit around the regulated area at various times, and, with the permission of the Patrol Commander, vessels may transit through the regulated area. Before the enforcement period, the Coast Guard will issue maritime advisories so mariners can adjust their plans accordingly.

### Assistance for Small Entities

Under section 213(a) of the Small Business Regulatory Enforcement Fairness Act of 1996 (Pub. L. 104–121), in the NPRM we offered to assist small entities in understanding the rule so that they could better evaluate its effects on them and participate in the rulemaking process.

Small businesses may send comments on the actions of Federal employees who enforce, or otherwise determine compliance with, Federal regulations to the Small Business and Agriculture Regulatory Enforcement Ombudsman and the Regional Small Business Regulatory Fairness Boards. The Ombudsman evaluates these actions annually and rates each agency’s responsiveness to small business. If you wish to comment on actions by employees of the Coast Guard, call 1–888–REG–FAIR (1–888–734–3247). The Coast Guard will not retaliate against small entities that question or complain about this rule or any policy or action of the Coast Guard.

### Collection of Information

This rule calls for no new collection of information under the Paperwork Reduction Act of 1995 (44 U.S.C. 3501–3520).

### Federalism

A rule has implications for federalism under Executive Order 13132, Federalism, if it has a substantial direct effect on State or local governments and would either preempt State law or impose a substantial direct cost of compliance on them. We have analyzed this rule under that Order and have determined that it does not have implications for federalism.

### Unfunded Mandates Reform Act

The Unfunded Mandates Reform Act of 1995 (2 U.S.C. 1531–1538) requires

Federal agencies to assess the effects of their discretionary regulatory actions. In particular, the Act addresses actions that may result in the expenditure by a State, local, or tribal government, in the aggregate, or by the private sector of \$100,000,000 or more in any one year. Though this rule will not result in such an expenditure, we do discuss the effects of this rule elsewhere in this preamble.

### Taking of Private Property

This rule will not effect a taking of private property or otherwise have taking implications under Executive Order 12630, Governmental Actions and Interference With Constitutionally Protected Property Rights.

### Civil Justice Reform

This rule meets applicable standards in sections 3(a) and 3(b)(2) of Executive Order 12988, Civil Justice Reform, to minimize litigation, eliminate ambiguity, and reduce burden.

### Protection of Children

We have analyzed this rule under Executive Order 13045, Protection of Children from Environmental Health Risks and Safety Risks. This rule is not an economically significant rule and does not create an environmental risk to health or risk to safety that may disproportionately affect children.

### Indian Tribal Governments

This rule does not have tribal implications under Executive Order 13175, Consultation and Coordination with Indian Tribal Governments, because it does not have a substantial direct effect on one or more Indian tribes, on the relationship between the Federal Government and Indian tribes, or on the distribution of power and responsibilities between the Federal Government and Indian tribes.

### Energy Effects

We have analyzed this rule under Executive Order 13211, Actions Concerning Regulations That Significantly Affect Energy Supply, Distribution, or Use. We have determined that it is not a “significant energy action” under that order because it is not a “significant regulatory action” under Executive Order 12866 and is not likely to have a significant adverse effect on the supply, distribution, or use of energy. The Administrator of the Office of Information and Regulatory Affairs has not designated it as a Statement of Energy Effects under Executive Order 13211.

**Technical Standards**

The National Technology Transfer and Advancement Act (NTTAA) (15 U.S.C. 272 note) directs agencies to use voluntary consensus standards in their regulatory activities unless the agency provides Congress, through the Office of Management and Budget, with an explanation of why using these standards would be inconsistent with applicable law or otherwise impractical. Voluntary consensus standards are technical standards (e.g., specifications of materials, performance, design, or operation; test methods; sampling procedures; and related management systems practices) that are developed or adopted by voluntary consensus standards bodies.

This rule does not use technical standards. Therefore, we did not consider the use of voluntary consensus standards.

**Environment**

We have analyzed this rule under Department of Homeland Security Management Directive 0023.1 and

Commandant Instruction M16475.ID, which guide the Coast Guard in complying with the National Environmental Policy Act of 1969 (NEPA) (42 U.S.C. 4321–4370f), and have concluded this action is one of a category of actions which do not individually or cumulatively have a significant effect on the human environment. This rule is categorically excluded, under figure 2–1, paragraph (34)(h), of the Instruction. This rule involves implementation of regulations within 33 CFR Part 100 that apply to organized marine events on the navigable waters of the United States that may have potential for negative impact on the safety or other interest of waterway users and shore side activities in the event area. The category of water activities includes but is not limited to sail boat regattas, boat parades, power boat racing, swimming events, crew racing, and sail board racing.

Under figure 2–1, paragraph (34)(h), of the Instruction, an environmental analysis checklist and a categorical exclusion determination are not required for this rule.

**List of Subjects in 33 CFR Part 100**

Marine safety, Navigation (water), Reporting and recordkeeping requirements, Waterways.

■ For the reasons discussed in the preamble, the Coast Guard amends 33 CFR part 100 as follows:

**PART 100—SAFETY OF LIFE ON NAVIGABLE WATERS**

■ 1. The authority citation for part 100 continues to read as follows:

**Authority:** 33 U.S.C. 1233.

■ 2. In § 100.501, amend Table to § 100.501, as follows:

■ a. Suspend line numbers 21, 37, 38, 40, and 54 from May 15, 2009 through July 12, 2009.

■ b. Add temporary line numbers 58, 59, 60, 61, and 62, from May 15, 2009 through July 12, 2009 to the end of the table to read as follows:

**§ 100.501 Special Local Regulations; Marine Events in the Fifth Coast Guard District.**

TABLE TO § 100.501—ALL COORDINATES LISTED IN THE TABLE TO § 100.501 REFERENCE DATUM NAD 1983

Number	Date	Event	Sponsor	Location
*	*	*	*	*
<b>Coast Guard Sector Baltimore—COTP Zone</b>				
58	5:30 a.m. to 2:30 p.m. July 11, 2009.	Maryland Swim for Life	District of Columbia Aquatics Club.	The waters of the Chester River from shoreline to shoreline, bounded on the south by a line drawn at latitude 39°10'16" N, near the Chester River Channel Buoy 35 (LLN-26795) and bounded on the north at latitude 39°12'30" N by the Maryland S.R. 213 Highway Bridge.
<b>Coast Guard Sector Hampton Roads—COTP Zone</b>				
59	12 p.m. to 5 p.m. June 6, 2009; rain date: June 7, 2009.	RRBA Spring Radar Shootout.	Rappahannock River Boaters Association (RRBA).	The waters of the Rappahannock River, adjacent to Layton, VA, from shoreline to shoreline, bounded on the west by a line running along longitude 076°58'30" W, and bounded on the east by a line running along longitude 076°56'00" W.

TABLE TO § 100.501—ALL COORDINATES LISTED IN THE TABLE TO § 100.501 REFERENCE DATUM NAD 1983—  
Continued

Number	Date	Event	Sponsor	Location
60 .....	9 a.m. July 3, 2009 to 11 p.m. July 5, 2009.	Norfolk Harborfest .....	Norfolk Festevents, Ltd	The waters of the Elizabeth River and its branches from shore to shore, bounded to the northwest by a line drawn across the Port Norfolk Reach section of the Elizabeth River between the northern corner of the landing at Hospital Point, Portsmouth, Virginia, latitude 36°50'51.0" N, longitude 076°18'09.0" W and the north corner of the City of Norfolk Mooring Pier at the foot of Brooks Avenue located at latitude 36°51'00.0" N, longitude 076°17'52.0" W; bounded on the southwest by a line drawn from the southern corner of the landing at Hospital Point, Portsmouth, Virginia, at latitude 36°50'50.0" N, longitude 076°18'10.0" W, to the northern end of the eastern most pier at the Tidewater Yacht Agency Marina, located at latitude 36°50'29.0" N, longitude 076°17'52.0" W; bounded to the south by a line drawn across the Lower Reach of the Southern Branch of the Elizabeth River, between the Portsmouth Lightship Museum located at the foot of London Boulevard, in Portsmouth, Virginia at latitude 36°50'10.0" N, longitude 076°17'47.0" W, and the northwest corner of the Norfolk Shipbuilding & Drydock, Berkley Plant, Pier No. 1, located at latitude 36°50'08.0" N, longitude 076°17'39.0" W; and to the southeast by the Berkley Bridge which crosses the Eastern Branch of the Elizabeth River between Berkley at latitude 36°50'21.5" N, longitude 076°17'14.5" W, and Norfolk at latitude 36°50'35.0" N, longitude 076°17'10.0" W.
61 .....	10 a.m. May 30, 2009 to 5 p.m. May 31, 2009.	Ocean City Maryland Offshore Grand Prix.	Offshore Performance Association, OPA Racing, LLC.	The waters of the Atlantic Ocean commencing at a point on the shoreline at latitude 38°25'42" N, longitude 075°03'06" W; thence east southeast to latitude 38°25'30" N, longitude 075°02'12" W, thence south southwest parallel to the Ocean City shoreline to latitude 38°19'12" N, longitude 075°03'48" W; thence west northwest to the shoreline at latitude 38°19'30" N, longitude 075°05'00" W. The waters of the Atlantic Ocean bounded by a line drawn from a position along the shoreline near Ocean City, MD at latitude 38°22'25.2" N, longitude 075°03'49.4" W, thence easterly to latitude 38°22'00.4" N, longitude 075°02'34.8" W, thence southwesterly to latitude 38°19'35.9" N, longitude 075°03'35.4" W, thence westerly to a position near the shoreline at latitude 38°20'05" N, longitude 075°04'48.4" W, thence northerly along the shoreline to the point of origin.
<b>Coast Guard Sector North Carolina—COTP Zone</b>				
62 .....	9 a.m. May 16, 2009 to 5 p.m. May 17, 2009.	Carolina Cup Regatta	The Carolina Cup Regatta Inc.	The waters of the Pasquotank River, adjacent to Elizabeth City, NC, from shoreline to shoreline, bounded on the west by the Elizabeth City Draw Bridge and bounded on the east by a line originating at a point along the shoreline at latitude 36°17'54" N, longitude 076°12'00" W, thence southwesterly to latitude 36°17'35" N, longitude 076°12'18" W at Cottage Point.

Dated: April 27, 2009.

**Fred M. Rosa, Jr.,**

*Rear Admiral, U.S. Coast Guard Commander,  
Fifth Coast Guard District.*

[FR Doc. E9-11056 Filed 5-11-09; 8:45 am]

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## DEPARTMENT OF HOMELAND SECURITY

### Coast Guard

#### 33 CFR Part 165

[Docket No. USCG-2008-1013]

RIN 1625-AA87

#### Security Zones; Escorted Vessels, Mobile, AL, Captain of the Port Zone

**AGENCY:** Coast Guard, DHS.

**ACTION:** Final rule.

**SUMMARY:** The Coast Guard is making permanent an interim rule establishing a security zone around any vessel being escorted by one or more Coast Guard assets, or other Federal, State, or local law enforcement assets, within the Captain of the Port Zone Mobile, AL. This action is necessary to ensure the safe transit and mooring of escorted vessels as well as the safety and security of personnel and port facilities. No vessel or person is allowed inside the security zone unless authorized by the Captain of the Port Mobile, AL or a designated representative.

**DATES:** This rule is effective June 11, 2009.

**ADDRESSES:** Comments and material received from the public, as well as documents indicated in this preamble as being available in the docket, are part of docket USCG-2008-1013 and are available online by going to <http://www.regulations.gov>, selecting the Advanced Docket Search option on the right side of the screen, inserting USCG-2008-1013 in the Docket ID box, pressing Enter, and then clicking on the item in the Docket ID column. They are also available for inspection or copying two locations: The Docket Management Facility (M-30), U.S. Department of Transportation, West Building Ground Floor, Room W12-140, 1200 New Jersey Avenue, SE., Washington, DC 20590, between 9 a.m. and 5 p.m., Monday through Friday, except Federal holidays, and the Coast Guard Sector Mobile Prevention Office located on South Broad Street, Mobile, Alabama 36615, between 9 a.m. and 4 p.m., Monday through Friday, except Federal holidays.

**FOR FURTHER INFORMATION CONTACT:** If you have questions on this rule, call LT Jonathan Mangum at Coast Guard Sector

Mobile Prevention Department, at 251-441-5940. If you have questions on viewing the docket, call Renee V. Wright, Program Manager, Docket Operations, telephone 202-366-9826.

#### SUPPLEMENTARY INFORMATION:

##### Regulatory Information

On November 13, 2008, we published an Interim Rule with request for comments (IR) entitled Security Zones; Escorted Vessels, Mobile, AL, Captain of the Port Zone in the **Federal Register** (73 FR 67104). We received comments from three commenters. No public meeting was requested, and none was held.

##### Background and Purpose

The terrorist attacks of September 11, 2001, heightened the need for development of various security measures throughout the seaports of the United States, particularly around vessels and facilities whose presence or movement creates a heightened vulnerability to terrorist acts; or those for which the consequences of terrorist acts represent a threat to national security. The President of the United States found that the security of the United States is and continues to have been endangered following the attacks of September 11 (E.O. 13273, 67 FR 56215 (Sep. 3, 2002), and 73 FR 54489 (Sep. 18, 2008)). Additionally, national security and intelligence officials continue to warn that future terrorist attacks are likely. The ports within the Captain of the Port (COTP) Zone Mobile, AL, as described in 33 CFR 3.40-10, frequently receive vessels that require additional security, including, but not limited to, vessels carrying sensitive Department of Defense cargoes, vessels carrying dangerous cargoes, and foreign naval vessels. The COTP has determined that these vessels have a significant vulnerability to subversive activity by other vessels or persons, or, in some cases, themselves pose a risk to a port and the public within the COTP Zone. This rule enables the COTP Mobile to provide effective port security, while minimizing the public's confusion and easing the administrative burden of implementing separate temporary security zone rules for each escorted vessel.

##### Discussion of Comments and Changes

All three commenters expressed concern that a 500-yard security zone would exceed the width of some navigable waters in the COTP Zone and thereby effectively shutdown navigation. These comments recognized that the COTP Mobile intends to permit vessels to transit through the zone if

such transit can be done safely, but the commenters expressed concern that the volume of maritime traffic in some of the waterways may create congestion and delays. We appreciate these concerns, but it is imperative that the law enforcement assets on-scene have an adequately sized buffer zone around the vessel to increase their ability to distinguish threats and to respond to threats that materialize. We also do not believe that a 500-yard security zone, even if extending bank-to-bank, will appreciably affect commercial navigation. Law enforcement assets on-scene will be designated by the COTP Mobile to allow safe transit through the zone, which is now routinely done for the many safety and security zones throughout the COTP Mobile zone without undue impact on navigation. The IR and this Final Rule establish a permanent mechanism for vessels requiring escort instead of using the ad-hoc security zone processes that had been COTP Mobile's past practice, and in doing so provide law enforcement assets with the appropriate legal basis and tools to ensure the security of the marine transportation system. Accordingly, this Final Rule does not change the size of the security zones established in the IR.

Two commenters expressed concern with the IR's provisions that allow, in some instances, the continuation of a security zone while the vessel is moored, even when law enforcement assets are not present. These commenters explained that without law enforcement assets on-scene the public would not be aware of the existence of the security zone, and there would be no efficient mechanism for obtaining approval from the COTP Mobile to transit through the zone. In instances where the security zone will continue without law enforcement assets present, the IR requires continued notice to the public through visible signs and markings and a Broadcast Notice to Mariners. We believe these requirements ensure sufficient notice to the public regarding the establishment of the security zone. However, we do agree that the lack of law enforcement assets on-scene in such cases could decrease the COTP Mobile's response to requests to transit through the zone in circumstances where that zone extends bank-to-bank or well into a navigable channel. Therefore, in the final rule, we are amending the definition of an *escorted vessel* to continue to permit the continuation of a security zone under this Final Rule for an escorted vessel that is moored, but only when Coast Guard or other Federal, State, or local